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**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

EPIC GAMES, INC.,

Plaintiff,

v.

APPLE INC.

Defendant.

Case No. 4:20-cv-05640-YGR-TSH

**DECLARATION OF SHANE M. PALMER  
 PURSUANT TO CIVIL LOCAL RULE  
 79-5(e)(1) AND IN SUPPORT OF EPIC'S  
 ADMINISTRATIVE MOTION TO FILE  
 UNDER SEAL EXHIBITS TO ITS  
 ADMINISTRATIVE MOTION FOR  
 LEAVE TO FILE SUR-REPLY (DKT NO.  
 707)**

1 I, Shane M. Palmer, declare as follows:

2 1. I am an attorney at the law firm of Sullivan & Cromwell LLP, and counsel  
3 to Non-Party Spotify USA Inc. (“Spotify”). I am a member in good standing of the Bars of the  
4 States of New York and California and a member of the Bar of this Court. I submit this declaration  
5 pursuant to Local Civil Rule 79-5(e) in support of Epic Games, Inc.’s (“Epic”) Administrative  
6 Motion to File Under Seal Exhibits to Its Administrative Motion for Leave to File Sur-Reply (Dkt.  
7 No. 707), which was filed on May 18, 2021. I have personal knowledge of the facts set forth in  
8 this declaration and can testify competently to those facts.

9 2. On May 18, 2021, Epic filed an Administrative Motion for Leave to File  
10 Sur-Reply in Response to Apple Inc.’s (“Apple”) Reply in Support of Its Motion to Strike Written  
11 and Oral Testimony of Dr. Michael I. Cragg (Dkt. No. 706). Epic filed its proposed Sur-Reply as  
12 an attachment to that Administrative Motion, along with a Declaration of Yonatan Even in support  
13 of its Sur-Reply (Dkt. Nos. 706-2, 706-3). Epic also filed, as Exhibit A to Mr. Even’s Declaration,  
14 a redacted version of a document that Spotify produced to the parties in this litigation, bearing  
15 Bates numbers SPOT-EPIC-00001047 through SPOT-EPIC-00001066 (Dkt. No. 706-4). The  
16 redacted version of Exhibit A to Mr. Even’s Declaration appears to be the same redacted version  
17 of SPOT-EPIC-00001047 that Spotify filed concurrently with its Administrative Motion to Seal  
18 Portions of SPOT-EPIC-00001047 (Dkt. No. 692-4) on May 17, 2021.

19 3. On May 20, 2021, the Court granted Spotify’s Administrative Motion to  
20 Seal Portions of SPOT-EPIC-00001047, finding that the document “reflect[s] highly confidential  
21 information including recent internal user data, the release of which would competitively harm  
22 Spotify.” (See Dkt. No. 715, at 3.)

23 4. Because the unredacted version of Exhibit A to Mr. Even’s Declaration in  
24 Support of Epic’s Sur-Reply (Dkt. No. 707-3) is identical to a document that the Court has already  
25 ordered sealed, the unredacted version of Exhibit A should also remain sealed for the reasons stated  
26 in the Declaration of Benjamin Kung in Support of Spotify’s Administrative Motion to Seal  
27 Portions of SPOT-EPIC-00001047 (Dkt. No. 692-1) filed on May 17, 2021. Only the redacted  
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